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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE

CIS, AAO, 20 Mass, 3/F

425 I Street, N.W.

Washington, D.C. 20536



File: [REDACTED] Office: Nebraska Service Center
(LIN 02 247 54011 relates)

Date:

SEP 24 2003

IN RE: Applicant: [REDACTED]

Application: Application for Refugee Travel Document Pursuant to 8 C.F.R.
§ 223.1(b)

IN BEHALF OF APPLICANT: [REDACTED]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained. The application will be approved.

The applicant is an eight year-old native of Cameroon. Her father seeks to obtain a refugee travel document on her behalf pursuant to 8 C.F.R. § 223.1(b). The director denied the application, finding that the photograph submitted with the application did not appear to be the same child as identified in CIS records under alien file number A78 640 936.

The regulation at 8 C.F.R. § 223.2(b)(2) allows for the approval of a refugee travel document if the application (Form I-131) is filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

The record reflects that [REDACTED], the father of the applicant, was granted asylee status on March 8, 1999. On February 8, 2000, he filed a Form I-730, Refugee/Asylee Relative petition, on behalf of his child, [REDACTED]. The child was assigned alien file number A78 640 936 and, on March 1, 2001, was admitted to the United States as an asylee.¹

On May 29, 2001, the applicant's father filed a Form I-131 application on her behalf.

On May 12, 2002, the applicant's father filed a second Form I-131 on her behalf. That application was approved on July 6, 2002 and the child was issued a refugee travel document valid through July 6, 2003.

On September 23, 2002, the first Form I-131 application was denied on the basis that the second application had been approved and the document issued was still valid.

On March 13, 2003, the applicant's father filed the instant, third, Form I-131 application on the child's behalf. In support of the application, the father submitted documentation including a copy of the child's passport and previously issued refugee travel document. The photograph on the passport was too dark and the photograph on the travel document was too light to verify the applicant's identity. The director denied the application on June 6, 2003, after having reviewed electronically stored images relating to the child's previous travel document and alien file number A78 640 396. The director concluded that the Form I-131 applicant did not appear to be the individual in the relating alien file.

¹ At the time of admission, the child's name on the Form I-94 Departure Record was misspelled as [REDACTED]

On appeal, counsel states that the applicant was five years-old at the time she was granted asylee status and is now eight years-old and that the appearance of children changes substantially during these years. In support of the appeal, counsel submits color-copy photographs of the child at different ages from 1996 through 2003, showing the natural maturation of the child, and color-copies of the child's passport and previously issued travel document photographs.

After a careful review of the record and the documentation submitted on appeal, it is concluded that satisfactory evidence has been submitted to establish that the applicant is the same child as identified in CIS records relating to alien file number A78 640 936. Therefore, the appeal will be sustained. The decision of the director will be withdrawn and the application will be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has met that burden.

ORDER: The appeal is sustained. The decision of the director is withdrawn and the application is approved.